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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,851	09/26/2003	Colin Andrew Low	30018433-3	1268

7590 10/26/2006

HEWLETT-PACKARD COMPANY
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EXAMINER

CHENG, JOE H

ART UNIT PAPER NUMBER

3714

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/672,851	Applicant(s) LOW ET AL.	
	Examiner Joe H. Cheng	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/26/03 and 7/16/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation therein is confusing and unclear, because the structural elements of the claimed method steps or structural elements cannot perform the function of simulating the activities of a plurality of creatures. In addition, it appeared that applicant is intended to claimed the Markush groups, *inter alia*, fighting, mating, eating (as per claim 3), creature mass, creature energy, creature strength (as per claims 7-9) is improper. It is suggested that when materials recited in a claim are so related as to constitute a proper Markush group, they may be recited in the conventional manner or alternatively, for example, “wherein ... is ... selected from the group consisting of ... and ...” or “wherein ... is ... or ...” is a proper limitation and is considered proper. See *Ex parte Markush*, 1925 C.D. 126 (Comm’r Pat. 1925) and MPEP § 2173.05(h)). Further, the antecedent basis for “the firing simulator” (regarding to claim 6) and “the means arranged to reflect a first beam part” (regarding to claim 16) has not been clearly set forth. Further, the terms “as an optical, electrical or radio signal” (regarding to claims 7 and 15) is vague and indefinite, because it is an alternate expression and is subject to more than one interpretation. Further, the step of “observing” (as per claim 1) is missing.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. To satisfy the section 101 requirements, the claim must be for a practical application of the 101 judicial exception, which can be identified by either (a) the claimed invention “transforms” an article or physical object to a different state or thing or (b) the invention otherwise produces a useful, concrete and tangible result. The method is directed to a computerized simulation of the activities of the creatures process. In order for a claim to be statutory it must show a practical application. In the present case there is no physical transformation occurring, each of the steps is intended to occur with the aid of a computer system. The claims, therefore, do not meet the first of the requirements. The claims fail to always produce a tangible result. In order for the result to be tangible, it must be a “real-world” result. In other words, a user of the system must be capable of appreciating the result of the method. This can be achieved through any form of communicating the result to the user, which gives it a real world value. Although scores are accumulated and stored, the result of these steps are never realized in a “real-world” application of communication to the user, thus there is no real-world or practical application of the abstract idea.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-11 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by “The Sims Livin’Large Expansion Pack – Prima’s Official Strategy Guide” by Rick Barba, 2000 (hereinafter as Barba). The broadly claimed of the method, recordable medium and device can be interpreted as the Official Strategy Guide of the Sims City of Barba. The teaching of Barba broadly discloses the method, or recordable medium, or device of simulating the activities of a plurality of creatures comprising the steps of the first mode for simulating the activities of all of the creatures (see chapter 3 or fore example see Figs. 4-9, 5-4, 5-5, 5-8, 5-9) and the second mode for simulating the activities of at least one of the creatures when it is detected that one or more of the creatures simulated by the first mode is undergoing a change in environment, such as fighting, mating, eating, interacting with another creatures, moving to a new terrain type (see pages 75-79 or see Figs. 5-10, 5-11), which is invoked at the start of the simulation so as to determine the starting parameters of each creatures, or to determine at least one parameter being subsequently utilized by the first mode of simulation, such as creature behavior transition probabilities (i.e. the mood and motives), creature biochemical levels (i.e. the love relationship), or at least one parameter relating to the creature simulated by the second mode is stored for use by a later iteration of the second mode (for example the activities such as sleep, social, love, etc. which will effect the creatures in the later iteration, for example, wedding, family and housemates, or the careers and skills in Chapter 6).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boschert (U.S. Pat. No. 5,467,739) discloses the apparatus for simulating a tide pool in an aquarium. Yokoi (U.S. Pat. No. 6,213,871 B1) teaches the nurturing simulation apparatus for virtual creatures. Bonabeau (U.S. Pub. No. 2001/0053991 A1) teaches the method and systems for simulating business models to determine their performance. Tochner et al (U.S. Pub. No. 2002/0090985 A1) discloses the coexistent interaction between a virtual character and the real world. Kelton et al (U.S. Pat. No. 6,729,884 B1) teaches the internet-based game for teaching personal values and financial responsibility to a child. French et al (U.S. Pat. No. 6,749,432 B2) discloses the education system for challenging a subject's physiologic and kinesthetic system a to synergistically enhance cognitive function. Kim (U.S. Pat. No. 6,910,186 B1) teaches the graphic chatting with organizational avatars. Eguchi et al (U.S. Pat. No. 6,951,516 B1) discloses the method and apparatus for multi-user communications using discrete video game platforms in at least one virtual environment. Cook et al (U.S. Pat. No. 7,061,493 B1) teaches the system for designing and rendering personalities for autonomous synthetic characters.

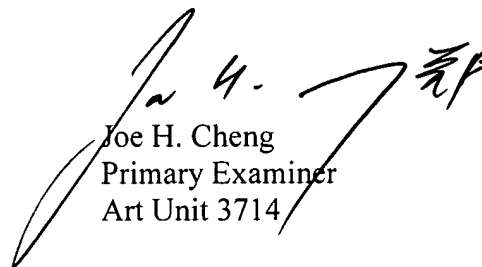
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (571)272-4433. The examiner can normally be reached on Tue. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571)272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joe H. Cheng
September 30, 2006



Joe H. Cheng
Primary Examiner
Art Unit 3714